

# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

### SUMMARY

#### **Affordable Housing, Real Estate Law, and Mortgages Work Group June 3, 2015, 10:00 A.M. House Room C, General Assembly Building**

#### **I. Call to Order - Affordable Housing, Real Estate Law, and Mortgages Work Group**

**Delegate Christopher Peace**, *Chair*, called the meeting to order at 10:00A.M.

**Work Group members in attendance:** Delegate Christopher Peace; Delegate Betsy Carr; Delegate Daniel Marshall; Delegate Barry Knight; Senator Mamie Locke; Senator George Barker; Mark Flynn, *Governor Appointee/Virginia Municipal League*; Laura Lafayette, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; Neal J. Barber, *Community Futures*; Steve Baugher, *Virginia Association of Mortgage Brokers*; Paul Brennan, *Virginia Housing Development Authority*; Robert N. Bradshaw, *Independent Insurance Agents of Virginia*; Tyler Craddock, *Manufactured & Modular Housing Association*; Heather Crislip, *HOME*; Chip Dicks, *Virginia Association of Realtors*; Andrew M. Friedman, *Virginia Beach Department of Housing & Neighborhood Preservation*; Brian Gordon, *Northern Virginia Apartment Builders Association*; Kelly Harris-Braxton, *Virginia First Cities*; Kelly King Horne, *Homeward*; Erik Johnston, *Virginia Association of Counties*; Erik Johnston, *Virginia Association of Counties*; Katharine Payne, *Williams Mullen*; Renee Pulliam, *Virginia Apartment Management Association*; Jay Speer, *Poverty Law Center*; Elizabeth Steele, *Stewart Title*; Chris Thompson, *Department of Housing and Community Development*; Michael Toalson, *Home Builders Association of Virginia*; William Walton, *Real Property, Inc.*; Michele Watson, *Virginia Housing Development Authority*

**Staff:** Elizabeth Palen, *Executive Director of VHC*

#### **II. Virginia Housing Trust Fund (SJ 235; Virginia Housing Trust Fund; revenue source; Watkins; 2015)**

- **Senator John Watkins:** For many years, we have been trying to appropriate funds into a trust fund used to augment the skyrocketing costs of rents. I recognize that this is a perennial favorite, but we have got to come up with a permanent revenue stream.
- **Bill Shelton**, *Director, Department of Housing & Community Development*: Presentation on the Housing Trust Funds, which is available under the "materials" section on the VHC website.
- **Delegate Peace:** What are the criteria given for the grants and awards? Are they developed internally or legislatively?

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DELEGATE DANIEL W. MARSHALL, III  
DELEGATE DAVID L. BULOVA  
DELEGATE ROSALYN R. DANCE  
DELEGATE BARRY D. KNIGHT  
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE  
SENATOR JOHN C. WATKINS  
SENATOR GEORGE L. BARKER

MARK K. FLYNN  
LAURA D. LAFAYETTE  
T.K. SOMANATH

- **Shelton:** There is some guidance in legislation. The grants were very prescriptive. For loans, we tied it back to working state policy through the governor's executive order.
- **Peace:** Were they weighted or equally allotted?
  - **Shelton:** Allotted. We were letting the market dictate.
- **Peace:** For the lack of a better term, these were "shovel-ready" projects?
  - **Shelton:** Correct.
- **Peace:** Are we able to measure the impact of those in a dynamic way?
  - **Shelton:** I don't have that for you today. I have self-reported information from the recipients, and I expect that to be very positive. We also have a study independently commissioned to have a research community look into this, which is underway as we speak.
- **Kelly King Horne, Homeward:** I have an anecdotal report. When our homeless service provider received news they were to become a recipient of the Housing Trust Fund, they immediately doubled the amount of families they could serve.
- **Chip Dicks, Virginia Association of Realtors:** Was there a thought to create a related 501(c)(3) nonprofit entity to coordinate with the Virginia Housing Trust Fund?
  - **Shelton:** No, not directly tied to the Virginia Housing Trust Fund. We've had homeless assistance, which pulls in a modest amount, which did not require a separate 501(c)(3).
- **Renee Pulliam, Virginia Apartment Management Association:** The quality of life of the residents in Hopewell with Community Housing Partners is vastly improved with the assistance of this fund.
- **Watkins:** Could some partners sit down with some of Mr. Shelton's folks and come up with some metrics?
  - **Shelton:** The current status is that we have surveyed. Before I come back to you, I hope to have that in a more complete framework.
- **Peace:** There was a Model Block project that Project Homes did, is that the kind of thing you would be foreseeing?
  - **Shelton:** The projects we have been discussing with communities are gateway projects.
- **Laura Lafayette, Governor Appointee:** I hope we appreciate the leading role the state can play here. It would be a powerful gesture by the state to encourage similar activity at the local level.
- **Allison Bogdanovic, Executive Director, Virginia Supportive Housing:** Presentation, which is available under "materials" on the VHC website.

- **Peace:** Has any state looked at building fees or permits at the local level? It seems like the common denominator is transfer tax, recordation tax, and escrow. Has anyone looked at sources of fees that are taxes that have a nexus to real estate?
  - **Bogdanovic:** States like Pennsylvania match local recording fees. Lots of states use anything from unclaimed property to tobacco tax. Mostly the nexus between housing and the housing trust fund is the document recording fee and real estate transfer tax.
- **Watkins:** Clearly, recordation is the bellwether. We could come up with a formula within the recordation tax revenue that after we get to a certain revenue level, a percentage above that would be dedicated to the Housing Trust Fund. That doesn't count as a dedicated source every single year like Ms. Bogdanovic suggested, but it's an indication of the marketplace. I think it should be able to come up and down with the market. Maybe we should come up with some models.
  - This received changes from an investment type operation. DHCD does a good job investing. It would be a good idea to reinstate that piece so they could benefit from a critical mass. When you have high recordation tax years and have more money for the Housing Trust Fund, you could put that in the investment and just use the principal. This makes a statement that we need something specific do deal with this issue.
- **Dicks:** Looking at how Senate Finance and House Appropriations consider dedicated sources of revenue, a dedication source by statute can be overridden by budget process. Do you have any ideas why the two money committees might take a different look at the dedicated revenue when it hasn't looked favorably in the past?
  - **Watkins:** I think the economy is changing. I think the reliance on federal dollars is tapering down. The current Governor has made a strong statement for changing the economy, and housing is a big opportunity to shape that. I hope the Virginia Tech study will help show that.
- **Dicks:** Do you have a perspective on the affiliated nonprofit entity?
  - **Watkins:** I don't have a problem with it, but I think the tricky piece is going to be getting some of the other related organizations to buy into a 501(c)(3). It would represent a unique opportunity. You also must deal with using state funds in a setting that can be for-profit.
- **Dicks:** The General Assembly passed legislation to create a charitable trust entity. There are a number of companies in the Richmond area operating under that structure. The nonprofit takes all the profits and reinvests them back in the company, which allows a new thought process. We could look into this and encourage reinvestment in that area. I don't know if we would get enough public funds without significant private funds as well.
  - **Watkins:** If we had that in place six to eight years ago, we probably wouldn't have had to move the investment into the treasury.
- **Bogdanovic:** I encourage everyone to keep in mind the people who can have their lives positively affected by a dedicated revenue source.

- **Peace:** I don't know if the Virginia Tech study will show the trickle-down effects and how it would positively influence the economy.
- **Delegate Alfonso Lopez:** I really appreciate you taking the time to discuss this issue.

### III. Fair Housing Law

- **Lizbeth Hayes, Director, Virginia Department of Professional and Occupational Regulation, Fair Housing Program:** The only locality whose ordinance covers sexual orientation is Arlington. Now, two counties protect veteran status.
- **Peace:** Are there any complaints of veterans being discriminated against because of sexual orientation?
  - **Hayes:** This year, we haven't received any formal complaints alleging either sexual orientation or veteran status. Just because we do not receive those complaints does not mean it does not happen.

#### *Status as a Veteran*

- **Delegate Lopez:** We put in HB 1910 last year, which would provide discrimination against one's status as a veteran or assistance as a veteran is unlawful. We had conversations with those on the Commission, where we decided that fair housing is not the best approach. I ask the Commission to empower a Commission workgroup to discuss the better way to achieve this. This is part of a larger issue we're trying to address.
- **Peace:** We have someone in the executive branch who is responsible for veteran's affairs. Has their attention been brought to this issue?
  - **Lopez:** We have discussed it with the administration, but we want to discuss it more with them as part of this process.
- **Christie Marra, Attorney, Virginia Poverty Law Center:** In terms of the tax credit program, I think looking at those veterans who are hard to house is most helpful.

#### *Sexual Orientation*

- **Heather Crislip, President and CEO, HOME:** Presentation, which is available on the VHC website under "materials."
- **Lafayette:** How do you distinguish whether discrimination is based on orientation or expression versus race?
  - **Crislip:** It would largely be which classes you identify with and whether you experienced discrimination. It's largely statistical.
- **Mark Flynn, Governor Appointee/Virginia Municipal League:** Does anybody know what percentage of renters report evictions?
  - **Crislip:** That is an excellent question. We can look into that.
- **Dicks:** There is no data that normal evictions occurred because they didn't pay rent versus discrimination.

- **Crislip:** That's something you would determine in an investigation. These were only self-reported numbers.
- **Dicks:** One of the concerns is the issue of what happens when a complaint is filed and treated as a civil rights action. It is a liberal construction. There is an investigation, and the respondent has to produce data for the last three years for all apartments. The burden to the housing provider is huge. What the housing industry would like to see is a standard, and then we all can comply with the law.
  - **Crislip:** I agree; we would all like to see uniform standards.
- **Dicks:** The average Fair Housing investigation takes a year. What we see on the tenant side is a Fair Housing investigation filed based on a landlord-tenant dispute, nothing to do with fair housing, and they effectively get a free lawyer. If there are ways to address the issue without being in the process of Fair Housing Law, then the housing providers are all ears.
  - **Crislip:** I think your discussion has to do with larger issues regarding how Fair Housing cases are handled, and maybe we can discuss this another time.
- **Dicks:** How would a landlord know if two males were roommates or in a relationship?
  - **Crislip:** This study used a phone call test, where a child called on behalf of a parent. The initial point of inquiry was the test subject before getting into the intricacies of filing an application.
- **Dicks:** What if the two male applicants did not disclose that they were a homosexual couple or heterosexual couple? Is there any data showing they were discriminating against two male applicants with undisclosed sexual orientation versus a situation where a homosexual couple is exposed?
  - **Crislip:** They chose the methodology, so they could control the situation. They could present this as their parent and same-sex partner.
- **Peace:** Are you calling the same five management companies? Same script? The human variables are huge.
- **Crislip:** The perennial question is that we haven't seen this as an issue in Virginia. Has anyone filed a complaint? We try to get at the question: Is this a problem? We looked at the Richmond metro region, looked at large housing providers, and would do a matched-pair test. It is important to remember that our industry has a very low rate of response to email inquiries.
  - **Crislip:** We only counted it as a test if somebody got a response.
- **Peace:** Obviously this data would be different in different areas of the state.
  - **Crislip:** Yes, the rate can go up and down in different areas. We are just trying to show this is a problem.
- **Lafayette:** The value in the email testing is that you can hone in on this particular issue. This is what is causing the differential treatment, not any of the other protected classes. It would be interesting if we knew more about the folks responding. Is there an age

differential? There were nine negative responses and five positive responses to same-sex couples. Your positive and equal treatment equals the positive treatment?

**IV. Public Comment**

- **Delegate Peace** asked for any public comment.

**V. Adjourn**

- Upon hearing no request to comment, **Delegate Peace** adjourned the meeting at 11:45 A.M.